

## CONDITIONAL USE MOBILE VENDING SITE

### **Use Unit 44: Mobile Vending Site.**

Subject to Article 6, Section 3.16, the use of any parking lot, land area, or other premises by a motorized or non-motorized vehicle, trailer, kiosk, pushcart, stand or other device designed to be portable and not permanently attached to the ground which is used to sell goods, wares, merchandise or food. Specifically excluded from this use unit are persons vending from a motor vehicle who visit multiple private property sites on a daily basis for no more than one (1) hour per site and who have obtained a business license from the city. Also specifically excluded from this use unit are temporary open-air enterprises, which are regulated by Article 6, Section 3.5.

### **CONDITIONAL USE IN A C-1, C-2, AND C-5 ZONE**

- A. A written application for a conditional use submitted along with a \$75.00 filing fee on forms provided containing the following information
  1. The name, address and phone number of the applicant
  2. The status of the applicant, profit or non-profit.
  3. The name of the record title holder of the property, along with a copy of the warranty deed, and an indication, by the signing of the application for conditional use, that the title holder is aware of the conditional use being sought.
  4. Legal description and street address of the property involved.
  5. The section of article 4 of this chapter, under which the conditional use is sought on appeal.
  6. A description of the conditional use sought and the reasons why it should be approved.
  7. The effect the proposed conditional use will have on the character of the neighborhood and its residents.
  8. The zoning classification of the property.
  9. The names and addresses of all adjacent property owners of the property subject to the conditional use permit.
  10. Evidence in the form of a signed affidavit, that notice has been given to all adjacent property owners of the project subject to the conditional use after the application has been accepted and placed on the planning commission agenda. The applicant shall be responsible for providing such notice by certified mail, return receipt requested, to the last known address of such record owner(s) as certified by a licensed abstractor or a licensed land surveyor within the past sixty (60) days.
  11. The required affidavit and supporting exhibits (mailing receipts, list of property owners of record and copy of notice) shall be filed with the planning office no later than seven (7) days prior to the meeting.

- B. A site plan attached at a scale of 1" = 100' or larger on a maximum sheet size of 24"x 36" (other sizes and scales may be approved in special cases) containing the following information:
1. Boundary and legal description of property
  2. Use and zoning of adjacent property
  3. Street right-of-way, street intersections
  4. Driveways, curb cuts,
  5. Parking and loading areas including number of parking spaces required and provided for primary use
  6. Sidewalks, pedestrian ways
  7. Building outlines on lots with setbacks noted and entrance or exit identified
  8. Utility lines and easements including location of fire hydrants and/or fire escapes
  9. Proposed location of mobile vending unit and required parking spaces meeting requirements as outlined below

#### **ADDITIONAL REQUIREMENTS PER ARTICLE 6 SECTION 3.16**

A. Mobile Vendor requirements:

1. Present proof of a state sales tax identification number, or proof that a state sales tax identification number has been applied for.
2. If employed by another, the name and address of the person, firm, association, organization, company or corporation.

B. Mobile vending site restrictions:

1. If located on property which has another use, the mobile vending unit is considered an accessory use
  - a. May not exceed 160 square feet
  - b. May not be located in the front setback
  - c. Cannot be connected to any utilities
2. May not operate between the hours of 10:00 p.m. and 7:00 a.m.
3. The property on which the mobile vending site is to be located must be in compliance with the dust proofing and paving requirements for parking as set forth in Article 7, Section 8.

***Sec. 8. Surfacing.***

*All entrance/exit drives, access drives and parking and loading areas shall be graded and drained so as to dispose of all surface water accumulated thereon and shall be surfaced with a durable and dustless surface of at least an asphaltic concrete hot mix surface course. All storage areas shall be graded and drained and have a dustless surface of at least a single bitumous surface seal (chip seal).*

4. Not be located less than 1320' measured in a straight line from another mobile vending unit on the same side of the street
  - a. Measurement made from a line drawn around the mobile vending unit, with the line being at all points 10 feet from the nearest point of the mobile vending unit.
  - b. No more than two mobile vending units permitted on the corner lots at any intersection.
5. Not be located so as to obstruct parking spaces required for the operation of any other use on the site
6. Minimum of 3 parking spaces designated and maintained for vendor use
7. Display a health certificate, if required, in a manner visible to customers
8. All signs must meet the requirements of a temporary sign (Section 98-61).

Temporary signs. Temporary signs of rigid material shall not exceed six feet in height and shall have a maximum sign-face area of 32 square feet and a maximum sign area of 64 square feet. Nonrigid temporary signs shall not exceed a sign area of 200 square feet. Temporary signs shall be anchored or designed to resist overturning but shall be exempt from compliance with the provisions of subsections 98-60(a) (1) and section 98-62 except for compliance with the National Electrical Code. Temporary signs shall be erected, used or maintained on any lot or parcel for a period not exceeding 90 days in any 12-month period; provided, however, that banners or pennants may be used on any lot or parcel for an unlimited period. Private banners or pennants shall be extended onto or above public property or the public right-of-way only by authorization from the chief city inspector.

9. No flashing signs or lights allowed
10. Restricted from operating
  - a. Within 100' of any property that is zoned residential
  - b. Within 50' of a street intersection or pedestrian crosswalk
  - c. Within 50' of any driveway, loading zone, or bus stop
  - d. On the median strip of a divided roadway unless the strip is intended for use as a pedestrian mall or plaza
  - e. Within 100' of the intersection of an on or off ramp of a freeway and the street to which the ramp exits
  - f. Within 50' of any fire hydrant or fire escape
  - g. Within 50' of any parking space or access ramp designated for persons with disabilities

- h. Within 50' of an unobstructed pedestrian space
- i. Within 50' of a building entrance or exit
- j. On a city sidewalk or other public easement or within 20' feet of a public street or roadway.

C. Exemptions. The provisions of this chapter do not apply to:

- 1. Goods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment or transfer
- 2. The placing and maintenance of unattended stands or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals and paper bound books
- 3. The distribution of free samples of goods, wares and merchandise by any individual from his person
- 4. Farmers and growers selling fruits and vegetables which they have grown, provided these products are sold on parking lots where the owner has granted permission
- 5. Charitable organizations, such as Girl Scouts, Boy Scouts, on the property of another, so long as the owner of the property consents
- 6. Mobile vendors operating at special events, so long as the mobile vending unit is located totally within property owned, occupied, or leased by the operators of the special event. Special event means any occasion including but not limited to Rodeo of the Ozarks, FeatherFest, or city wide celebrations, and festivals taking place within a specifically defined area of the city for a period of time not to exceed five (5) days.

D. No person authorized to operate a mobile vending site shall do any of the following:

- 1. Unduly obstruct pedestrian or motor vehicle traffic flow
- 2. Obstruct traffic signals or regulatory signs
- 3. Conduct any vending upon a public way
- 4. Conduct any vending upon private property of another, unless the owner of the private property has consented to such vending in writing
- 5. Sound any device that produces a loud and raucous noise in violation of city ordinance, or violate any other city ordinances in connection with the vending operation

E. Sites shall be kept clean and free of paper or refuse of any kind generated from the operation of their business. All trash or debris accumulating within 20' feet of any vending stand should be collected by the vendor and deposited into a trash container.

- F. In addition to the provisions of Article 2, Section 12, a conditional use issued hereunder may be suspended or revoked for any of the following reasons:
1. Fraud, misrepresentation, or knowingly making a false statement contained in the application for the conditional use;
  2. Fraud, misrepresentation, or knowingly making a false statement in the course of carrying on the business of the mobile vending site;
  3. Conducting the business of the mobile vending site in any manner contrary to the conditions of the conditional use or this subchapter;
  4. Conducting the business of the mobile vending site in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public, health, safety, welfare or morals, or interfere with the rights of abutting property owners.
- G. The building inspector and the chief of police is responsible for enforcement once the conditional use is granted
- H. The granting of a conditional use for a mobile vending site as approved is nontransferable, shall be valid for one (1) year, and shall be valid only for the applicant and only at the location for which it is issued.
- I. Variances from these requirements shall not be granted.
- J. Each sales transaction completed in violation of the terms of this subchapter shall be considered a separate violation.
- K. Any person whose mobile vending unit conditional use has been revoked under this section may not apply for a new license for a period of one year from the date the revocation took effect.
- L. No petitions for a specific conditional use which was denied shall be reconsidered by the planning commission within twelve (12) months from the date of final disapproval thereof, unless there is written evidence submitted to the planning commission which justifies reconsideration.
- M. Any person who is aggrieved by the decision of the planning commission shall have the right to appeal to the city council by written request to the city clerk within thirty (30) days.